

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHRISTINE H. HUYNH and DEPARTMENT OF VETERANS AFFAIRS,
PUGET SOUND HEALTH CARE SYSTEM, Seattle, WA

*Docket No. 01-1383; Submitted on the Record;
Issued December 27, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an injury while in the performance of duty on April 3, 2000.

The Board finds that appellant did not meet her burden of proof to establish that she sustained an arm injury on April 3, 2000.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the "fact of injury" has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.⁴ Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990).

⁴ *Julie B. Hawkins*, 38 ECAB 393, 396 (1987); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

caused a personal injury.⁵ The term “injury” as defined by the Act, refers to some physical or mental condition caused by either trauma or by continued or repeated exposure to or contact with, certain factors, elements or conditions.⁶

On November 4, 2000 appellant, then a 46-year-old dental assistant, filed a traumatic injury claim alleging that she hurt both arms trying to connect dental equipment to a hose on several occasions at work on April 3, 2000.⁷ Appellant did not stop work but resigned from the employing establishment effective September 29, 2000.

By decision dated March 14, 2001, the Office denied appellant’s claim on the grounds that she did not submit sufficient evidence to establish that she sustained injury to her arms while in the performance of duty on April 3, 2000.

In support of her claim, appellant submitted a June 21, 2000 report in which Dr. David J. Butler, an attending Board-certified family practitioner, indicated that she was being seen for ongoing pain in her left arm⁸ and noted that she reported weakness in her left arm when she attempted to connect two hoses together at work. Dr. Butler diagnosed lateral epicondylitis of the left elbow and stated, “[I] discussed the likely causes of this.”⁹ Appellant also submitted a September 6, 2000 report in which Dr. Butler diagnosed ongoing lateral epicondylitis and extensor tenosynovitis of the left forearm and discussed a treatment plan for this condition.

These reports, however, are of limited probative value on the relevant issue in this case because they do not contain an indication that appellant sustained a work injury on April 3, 2000 or an opinion on the cause of appellant’s arm condition.¹⁰ Although Dr. Butler noted that appellant reported experiencing pain when connecting parts of dental equipment at work, he did not provide a clear opinion that appellant sustained the diagnosed condition due to the employment factors as alleged. The evidence of record does not establish that appellant sustained an injury on April 3, 2000 or that she suffered any condition due to an injury caused by employment factors. Appellant was provided with an opportunity to provide additional medical evidence but she failed to provide rationalized medical evidence showing that she sustained an injury in the performance of duty on April 3, 2000 as alleged.

⁵ *John J. Carlone*, 41 ECAB 354, 356-57 (1989); see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

⁶ *Elaine Pendleton*, *supra* note 2; 20 C.F.R. § 10.5(a)(14).

⁷ Appellant indicated that she felt pain in both wrists and elbows.

⁸ He noted that appellant reported pain in the lateral epicondyle at the elbow and some tenderness in the adjacent muscles.

⁹ Dr. Butler further stated, “She is advised to observe her work to see what she actually does with the arm while she is working to see if she is holding it in an aggravating position.” He noted that the date of injury was listed as “ongoing.”

¹⁰ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence which does not offer any opinion regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship).

For these reasons, appellant did not meet her burden of proof to establish that she sustained an arm injury in the performance of duty on April 3, 2000.

The March 14, 2001 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
December 27, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member